

**SEND**

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

|               |   |                                     |
|---------------|---|-------------------------------------|
| PLAINTIFF,    | ) | Case No. CASE NUMBER                |
|               | ) |                                     |
| Plaintiff(s), | ) | <b>CIVIL TRIAL SCHEDULING ORDER</b> |
|               | ) |                                     |
| v.            | ) | Discovery Cut-Off:                  |
|               | ) |                                     |
| DEFENDANT,    | ) | Non-discovery Motion                |
|               | ) | Hearing Cut-Off:                    |
| Defendant(s). | ) |                                     |
|               | ) | Pre-Trial Conference:               |
|               | ) |                                     |
|               | ) |                                     |
|               | ) | Jury / Court Trial:                 |
|               | ) |                                     |
|               | ) |                                     |
|               | ) | Trial Estimate:                     |
|               | ) |                                     |
|               | ) |                                     |
| _____         | ) |                                     |

The above matter is set for trial before the Honorable  
Virginia A. Phillips, Courtroom 2, United States District Court,  
3470 Twelfth Street, 2nd Floor, Riverside, California.

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1 their clients and opposing counsel before the telephonic status  
2 conference. Plaintiff's counsel must make the arrangements and  
3 place the conference call. Plaintiff's counsel shall include all  
4 counsel of record and the Court on the date and time scheduled.  
5 The conference operator is to place the final call to the Court at  
6 (951) 328-4420. To assist the Court and staff, participants shall  
7 identify themselves each time they speak. No cellular telephones  
8 or speaker telephones will be allowed.

9 **f. Status Conference with Appearance.** Status  
10 conferences with appearance may be set by the Court to discuss  
11 settlement status and other pending issues. All counsel are  
12 ordered to discuss the matter with their clients and opposing  
13 counsel before the status conference.

14 **g. Pre-Trial Conference.** This case has been placed on  
15 calendar for a Pre-Trial Conference pursuant to Federal Rules of  
16 Civil Procedure 16 and Local Rule 16-1. Each party appearing in  
17 this action shall be represented at the Pre-Trial Conference and at  
18 all pre-trial meetings by the lead trial counsel. Counsel should  
19 be prepared to discuss streamlining the trial, including  
20 presentation of testimony by deposition excerpts, time limits,  
21 stipulations as to undisputed facts, and qualification of experts  
22 by admitted resumes. In rare cases where the Pre-Trial Conference  
23 is waived by the Court, counsel must follow Local Rule 16-10.

24 **h. Trial.** The Court sets firm trial dates. Trials are  
25 conducted from Tuesday through Friday, 9:00 a.m. to 4:00 p.m.  
26 Counsel must be present no later than 8:30 a.m. Jury selection  
27 will take about two hours. Counsel must be ready to proceed with  
28 opening statements and witnesses immediately thereafter.

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1       9. If a settlement is reached, it shall be reported  
2 immediately to this Court as required by Local Rule 16-14.7.

3  
4                   **Preparation for the Pre-Trial Conference**

5       10. Compliance with the requirements of Local Rule 16 is  
6 mandatory. Counsel shall submit carefully prepared Memoranda of  
7 Contentions of Fact and Law (which may also serve as the trial  
8 briefs) and proposed Pre-Trial Conference Orders in accordance with  
9 the provisions of Local Rules 16-2.10 through 16-6. The form of  
10 the proposed Pre-Trial Conference Order shall be in conformity with  
11 the form set forth in Appendix A to the Local Rules.

12       11. The Memoranda of Contentions of Fact and Law shall be  
13 served not later than twenty-one (21) calendar days before the Pre-  
14 Trial Conference. The proposed Pre-Trial Conference Order shall be  
15 lodged seven (7) calendar days before the Pre-Trial Conference.

16       12. In drafting the proposed Pre-Trial Conference Order,  
17 counsel shall make a good faith effort to agree on and set forth as  
18 many uncontested facts as possible. The Court may read the  
19 uncontested facts to the jury at the start of the trial. Carefully  
20 drafted and comprehensively stated stipulations of facts will  
21 reduce the length of trial and increase the jury's understanding of  
22 the case.

23       13. In drafting the factual issues in dispute for the  
24 proposed Pre-Trial Conference Order, the issues of fact should  
25 track the elements of a claim or defense upon which the jury would  
26 be required to make findings. Counsel should attempt to state  
27 issues in ultimate fact form, not in the form of evidentiary fact  
28 issues (i.e., was the defendant negligent, was such negligence the

1 proximate cause of injury to the plaintiff, was the plaintiff  
2 negligent, not was the plaintiff standing on the corner of 5th and  
3 Spring at 10:00 a.m. on May 3). Counsel may list sub-issues under  
4 the headings of ultimate fact issues, but should not use this as a  
5 device to list disputes over evidentiary matters. In general, the  
6 issues of fact should set forth the disputed elements of the claims  
7 or affirmative defenses.

8 14. Issues of law should state legal issues upon which the  
9 Court will be required to rule after the Pre-Trial Conference,  
10 including during the trial, and should not list ultimate fact  
11 issues to be submitted to the trier of fact.

12 15. If expert witnesses are to be called at trial, each party  
13 shall list and identify its respective expert witnesses. Failure  
14 of a party to list and identify an expert witness in the proposed  
15 Pre-Trial Conference Order shall preclude a party from calling that  
16 expert witness at trial.

#### 17 18 Exhibits

19 16. Counsel are to prepare their exhibits by placing them in  
20 3-hole notebooks which are tabbed down the right side with exhibit  
21 numbers. The notebooks are to be prepared with an original for the  
22 Clerk, which shall be tagged with the appropriate exhibit tags in  
23 the upper right hand corner of the first page of each exhibit, and  
24 one copy for the Court. Each notebook shall contain a list of the  
25 included exhibits. The exhibits are to be numbered in accordance  
26 with Local Rule 26-4. Counsel can obtain exhibit tags at the  
27 Clerk's Office, Room 134, 1st Floor, 3470 Twelfth Street,  
28 Riverside.

1 17. The Court requires the following to be submitted to the  
2 Courtroom Deputy Clerk on the first day of trial:

3 a. The original exhibits with the Court's exhibit tags.  
4 The parties shall use yellow tags for plaintiff and blue tags  
5 for defendant, which shall be stapled to the front of the  
6 exhibit on the upper right corner with the case number, case  
7 name, and exhibit number placed on each tag.

8 b. One bench book with a copy of each exhibit for use  
9 by the Court, tabbed with numbers as described above.  
10 (Court's exhibit tags not necessary.)

11 c. Three (3) copies of exhibit lists.

12 d. Three (3) copies of witness lists in the order in  
13 which the witnesses may be called to testify.

14 The exhibit lists shall be in the form indicated by the  
15 following example:

16 Case Title: \_\_\_\_\_ Case No. \_\_\_\_\_

| 17 <u>No. of Exhibit</u> | <u>Description</u>                | <u>Date</u><br><u>Identified</u> | <u>Date</u><br><u>Admitted</u> |
|--------------------------|-----------------------------------|----------------------------------|--------------------------------|
| 19 3                     | 1/30/80 letter<br>from Doe to Roe | _____                            | _____                          |

21 The witness lists shall be in the form indicated by the  
22 following example:

24 Case Title: \_\_\_\_\_ Case No. \_\_\_\_\_

| 25 <u>Name of Witness</u> | <u>Date called to testify</u> |
|---------------------------|-------------------------------|
| 27 1. John Doe            | _____                         |
| 28 2. Jane Roe            | _____                         |



1        18. All counsel are to meet no later than ten (10) calendar  
2 days before trial and to stipulate to the extent possible to  
3 foundation, waiver of the best evidence rule, and which exhibits  
4 may be received into evidence at the start of trial. The exhibits  
5 to be received will be noted on the extra copies of the exhibit  
6 lists.

7  
8                    **Trial Preparation for Court Trials**

9        19. Fourteen (14) calendar days before the trial date, each  
10 party shall prepare and serve on opposing counsel copies of the  
11 proposed Findings of Fact and Conclusions of Law. Each party shall  
12 review the other party's proposed Findings and Conclusions and make  
13 such changes in the party's own proposed Findings and Conclusions  
14 as necessary following such review. Seven (7) calendar days before  
15 the trial date, each party shall lodge two copies of its proposed  
16 Findings of Fact and Conclusions of Law with the Court, also  
17 serving other parties if changes have been made. The parties shall  
18 be prepared to submit to the Court, and to exchange among  
19 themselves, supplemental Findings of Fact and Conclusions of Law  
20 during the course of the trial.

21  
22                    **Trial Preparation for Jury Trials**

23        20. Fourteen (14) calendar days prior to the Rule 16 meeting,  
24 counsel shall exchange proposed jury instructions and special  
25 verdict forms (if applicable). Seven (7) calendar days prior to  
26 the Rule 16 meeting, counsel shall exchange any objections to the  
27 instructions and special verdict forms. Prior to, or at the time  
28 of the Rule 16 meeting, counsel shall meet and confer with the goal

1 of reaching agreement to one set of joint jury instructions and one  
2 special verdict form.

3       21. The parties must file proposed jury instructions seven  
4 (7) calendar days before the Pre-Trial Conference. As always, the  
5 parties must submit courtesy copies directly to the Court. In  
6 addition, the parties must submit electronic versions (either Word  
7 or WordPerfect format) to the Court at the following electronic  
8 mail address: VAP\_Chambers@cacd.uscourts.gov.

9       22. As noted above, the parties must act jointly to submit  
10 proposed jury instructions. The parties must submit one set of  
11 agreed upon jury instructions. The parties must submit another set  
12 of jury instructions containing the instructions upon which the  
13 parties disagree and the objections to those instructions.

14       23. Where the parties disagree on an instruction, the party  
15 opposing the instruction must attach a short (i.e., one to two  
16 paragraphs) statement supporting the objection and the party  
17 submitting the instruction must attach a short statement supporting  
18 the instruction. Each statement should be on a separate page and  
19 should follow directly after the disputed instruction.

20       24. Accordingly, the parties ultimately will submit one  
21 document or, if the parties disagree over any proposed jury  
22 instructions, two documents. If the parties submit two documents,  
23 those documents should consist of: (1) a set of agreed upon jury  
24 instructions and (2) a set of disputed jury instructions along with  
25 reasons supporting and opposing each disputed instruction.

26       25. The Court orders the parties to make every attempt to  
27 agree upon the jury instructions before submitting them to the  
28 Court. In addition, where the Manual of Model Civil Jury

1 Instructions for the Ninth Circuit (2001 edition) provides a  
2 version of a requested instruction, the parties should submit the  
3 Model instruction. Where California law applies, the Court prefers  
4 counsel to use *Judicial Council of California, Civil Instructions* -  
5 ("CACI"). If neither of the above sources is applicable, counsel  
6 are directed to use the instructions from Edward J. Devitt, *et al.*,  
7 *Federal Jury Practice and Instructions* (4th ed. 1987 & Supp. 1995).  
8 Each requested jury instruction shall cover only one subject or  
9 principle of law and shall be numbered and set forth in full on a  
10 separate page, citing the authority or source of the requested  
11 instruction (except for the jury copy discussed infra at ¶ 26).

12 26. The Court will send a copy of the jury instructions into  
13 the jury room for use by the jury during deliberations.  
14 Accordingly, in addition to the file copies described above, the  
15 parties shall file with the Courtroom Deputy Clerk on the first day  
16 of the trial a "clean set" of joint and/or proposed jury  
17 instructions which contain only the text of each instruction set  
18 forth in full on each page, with the caption "Court's Instruction  
19 Number \_\_\_\_" (eliminating titles, supporting authority, indication  
20 of party proposing, etc.). This will be referred to as the "Jury  
21 Copy" of the jury instructions.

22 27. If counsel prepared the jury instructions using  
23 WordPerfect, counsel shall provide the Court with a three and one-  
24 half inch floppy disk containing the proposed jury instructions  
25 along with the hard copy.

26 28. An index page shall accompany all jury instructions  
27 submitted to the Court. The index page shall indicate the  
28 following:

- 1 a. The number of the instruction;  
2 b. A brief title of the instruction;  
3 c. The source of the instruction and any relevant case  
4 citations; and  
5 d. The page number of the instruction.

6 EXAMPLE:

| <u>Number</u> | <u>Title</u>    | <u>Source</u>  | <u>Page</u> |
|---------------|-----------------|----------------|-------------|
| 1             | Burden of Proof | 9th Cir. 12.02 | 7           |

9  
10 29. Counsel shall prepare a joint statement of the case which  
11 will be read by the Court to the prospective panel of jurors prior  
12 to the commencement of voir dire. The statement should not be  
13 longer than two or three paragraphs. The statement shall be filed  
14 with the Court seven (7) calendar days before the Pre-Trial  
15 Conference.

16 **Internet Site**

17 Counsel are encouraged to review the Central District's  
18 website for additional information. The address is  
19 "http://www.cacd.uscourts.gov".  
20

21 The Courtroom Deputy Clerk is ordered to serve a copy of this  
22 Order personally or by mail on counsel for all parties to this  
23 action.

24 IT IS SO ORDERED.

25  
26 Dated: \_\_\_\_\_

27 \_\_\_\_\_  
28 VIRGINIA A. PHILLIPS  
United States District Judge